

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

-against-

**MEMORANDUM OF
DECISION AND ORDER**
01 CR 469

HERBERT MAGEE,

Defendant.

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APPEARANCES:

**BENTON J. CAMPBELL, UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK**

610 Federal Plaza

Central Islip, NY 11722

By: Richard Donoghue, Chief Assistant United States Attorney,

JAMES C. NEVILLE, ESQ.

16 N. Washington Street

P.O. Box 1711

Port Washington, NY 11050

SPATT, District Judge.

The Government is ordered to show cause in writing on or before March 7, 2008 why the Court should not sua sponte, pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. § 1B1.10 (as amended effective March 3, 2008), re-sentence the Defendant on April 11, 2008 at 10 o'clock in the forenoon.

James C. Neville, Esq., is hereby appointed pursuant to the Criminal Justice Act to represent the Defendant in this matter. Any response to the Government's submission shall be filed on or before March 14, 2008. Any reply shall be filed on or

before March 19, 2008. The parties are directed to appear in courtroom 1020 on April 11, 2008 at 10a.m. for the Defendant's re-sentencing.

The United States Department of Probation is directed to obtain all records regarding the Defendant's behavior during his current term of incarceration and produce all such records to this Court on or before March 19, 2008. The Probation Department is further ordered to submit any amendments to the Defendant's pre-sentence report on or before March 19, 2008.

So Ordered.

Dated: Central Islip, New York
February 6, 2008

/s/ Arthur D. Spatt
Arthur D. Spatt
United States District Judge